

### REMARKS

In the Office Action dated December 1, 2004, claims 1-44 were rejected. Claims 1-44 are now pending in the application. In view of the amendments and remarks, Applicant respectfully requests reconsideration of the application.

The Examiner has requested a certified copy based on foreign priority. Applicant withdraws the claim on foreign priority.

Claims 1, 8-11, 29, and 36-39 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 6,248,946 (hereinafter Dwek).

The Dwek reference teaches a system for delivering multimedia content to computers over a computer network. A media player includes a user interface which allows a listener to search an on-line database of media selections and build a custom playlist of exactly the music selections desired by the listener. (Dwek, abstract)

Further, the Dwek reference further teaches that a listener may select any music selections available online and add them to the playlist in any order. (Dwek, col. 7, lines 5-25)

Applicant amended Claims 1, 13, 23, 29, 41, and 43 to include the limitation of:

wherein each said data mark information indicates a  
time and each said data mark information represents  
content that is broadcasted at said time

Applicant respectfully submits that the Dwek reference fails to teach a data mark information that indicates a time. Further, Applicant believes that the Dwek

reference fails to teach the data mark information that represents content that is broadcasted at the time indicated by the data mark.

Although the Dwek reference teaches a system for delivering multimedia content to computers over a computer network, the Dwek reference does not teach the data mark information that indicates a time and represents content that is broadcasted at said time.

Therefore, the Dwek reference does not teach every element of Claims 1 and 29. Thus, independent Claims 1 and 29 are in condition for allowance. In addition, Claims 8-11 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above. Claims 36-39 depend directly or indirectly on Claim 29 and therefore, are patentable for at least the same reasons discussed above.

Claims 2, 12, 30 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Dwek reference in view of US Publication 2003/0061105. Claims 2 and 12 depend directly or indirectly on Claim 1. For the reasons discussed above, Claim 1 is in a condition for allowance. Therefore, Claims 2 and 12 are patentable for at least the same reasons as discussed above. Claims 30 and 40 depend directly or indirectly on Claim 29. For the reasons discussed above, Claim 29 is in a condition for allowance. Therefore, Claims 30 and 40 are patentable for at least the same reasons as discussed above.

Claims 3-7, 13-14, 16-22, 31-35, and 41-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Dwek reference in view of WO 98/45770. Applicant respectfully submits that neither the Dwek reference nor WO 98/45770 either singly or in combination teach, hint, or suggest the data mark information as recited in Claims 13 and 41. Further neither the Dwek reference nor WO 98/45770 either singly or in combination teach, hint, or suggest the data mark

information that indicates a time and represents content that is broadcasted at said time as recited in Claims 13 and 41.

Therefore, neither the Dwek reference nor WO 98/45770 suggest or hint at the limitations recited in Claims 13 and 41. Thus, independent Claims 13 and 41 are in condition for allowance. Claims 14 and 16-22 depend on Claim 13 and therefore, is patentable for at least the same reasons discussed above. Claim 42 depends on Claim 41 and therefore, is patentable for at least the same reasons discussed above.

Claims 3-7 depend directly or indirectly on Claim 1. For the reasons discussed above, Claim 1 is in a condition for allowance. Therefore, Claims 3-7 are patentable for at least the same reasons as discussed above. Claims 31-35 depend directly or indirectly on Claim 29. For the reasons discussed above, Claim 29 is in a condition for allowance. Therefore, Claims 31-35 are patentable for at least the same reasons as discussed above.

Claims 15, 23-28 and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Dwek reference in view of WO 98/45770 and further in view of US Publication 2003/0061105. Applicant respectfully submits that neither the Dwek reference nor WO 98/45770 nor US Publication 2003/0061105 either singly or in combination teach, hint, or suggest the data mark information as recited in Claims 23 and 43. Further neither the Dwek reference nor WO 98/45770 nor US Publication 2003/0061105 either singly or in combination teach, hint, or suggest the data mark information that indicates a time and represents content that is broadcasted at said time as recited in Claims 23 and 43.

Therefore, neither the Dwek reference nor WO 98/45770 nor US Publication 2003/0061105 suggest or hint at the limitations recited in Claims 23 and 43. Thus, independent Claims 23 and 43 are in condition for allowance. Claims 24-28 depend on Claim 23 and therefore, is patentable for at least the

same reasons discussed above. Claim 44 depends on Claim 43 and therefore, is patentable for at least the same reasons discussed above.

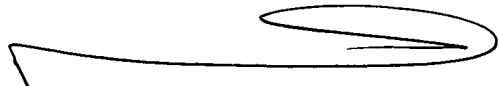
Claim 15 depends directly or indirectly on Claim 13. For the reasons discussed above, Claim 13 is in a condition for allowance. Therefore, Claim 15 is patentable for at least the same reasons as discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

Respectfully submitted,

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